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REMARKS

Claims 1-11 and 14-23 were examined. According to the Patent Office claims 1-11 appear to be allowable. The Applicants wish to thank the Patent Office for allowing claims 1-11. Claims 14 and 16 are amended. Claims 1-11 and 14-23 remain in the Application.

The Patent Office objects to claim 16 and questions the calcium concentration in paragraph [0032] of the Specification of the Application. With respect to the Specification, see the Specification section and Appendix A. With respect to the rejections, the Patent Office rejects claims 14-23 under 35U.S.C. § 112, second paragraph, and §102(e) and §103(a). Reconsideration of the pending claims is requested in view of the above amendments and the following remarks.

A. Objection to Claim 16

The Patent Office objects to claim 16 and requests that "solubilized_beverage" be "solubilized beverage." Applicants amend claim 16 per the suggestion of the Patent Office and respectfully request withdrawal of the objection.

B. 35 U.S.C. Second Paragraph, Rejection of Claims 14-23

The Patent Office rejects claims 14-23 under 35U.S.C. § 112, second paragraph. According to the Patent Office, claims 14-23 fail to correspond within the scope of the invention with respect to the response filed 6/3/2003 and is not as it was claimed with respect to the pH range set forth in claim(s).

The Applicant has amended claim 14 with respect to the pH range. The pH range of pH 3 to pH 5 falls within the scope of the Application. Therefore, claim 14 has been amended from "wherein the final pH range is less than pH 5" to "and has a pH range of pH 3

to pH 5." Amended claim 14 falls within the scope of the invention and therefore overcomes the 35U.S.C. § 112, second paragraph rejection by the Patent Office.

Claim 14 has been amended to overcome the 35U.S.C. § 112, second paragraph rejection. Claims 15-23 depend from claim 14 and therefore contain all the limitations of that claim. For at least the above stated reason with respect to claim 14, claim(s) 15-23 fall within the scope of the invention.

Applicants respectfully request the Patent Office withdraw the rejection to claims 14-23 under 35U.S.C. § 112, second paragraph.

C. 35 U.S.C. §102/103 Rejection of Claims 14-16,20,22

The Patent Office rejects claims 14-16, 20,22 under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Liska et al.Liska (U.S. Patent No. 6,051,260). The Patent Office directs Applicant's attention to columns 10 and 11 and claims 7-15 of Liska where a composition that is mixed in water contains inulin, fructooligosaccharides, calcium panthothenate, ascorbic acid, vitamin E, calcium citrate, magnesium citrate, potassium phosphate, vitamin D3 and vitamin K.

Independent claim 14 relates to a composition, including inulin, a calcium compound, a magnesium compound and an acidifier in an amount up to the equivalent amount of a calcium of the calcium compound. Independent claim 14 is not anticipated by nor prima facie obvious in view of Liska, because Liska fails to describe an organic acidifier (such as the combination of malic acid and citric acid) in an amount up to the equivalent amount of calcium of a calcium compound. Liska discloses a source of panthothenic acid (not pantothenic acid) and folic acid. Neither of the panthothenic acid (Vitamin B complex) nor

the folic acid (Vitamin B) are described as or used as pH modifying organic acidifiers. Furthermore, there is no teaching or motivation in Liska to add an acidifier in the composition set forth by Liska. In addition, Liska fails to include a pH of pH 3 to pH 5. There is no teaching or motivation in Liska for such a pH limit included in claim 14.

Applicants respectfully request the Patent Office withdraw the rejection of independent claim 14 under 35 U.S.C. §102(e) or §103(a). Claims 15-16, 20 and 22 depend from claim 14 and therefore contain all of the limitations of that claim. For at least the reasons stated above with respect to claim 14, claims 15-16, 20 and 22 are not anticipated by or obvious over Liska.

Applicants respectfully request the Patent Office withdraw the rejection to claims 15-16, 20 and 22 under 35 U.S.C. §102(e) or §103(a).

CONCLUSION

Applicants respectfully submit that the rejections have been overcome by the amendments and remarks, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed and such action is requested at the earliest possible date.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: September 3, 2003

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APPENDIX A

The calcium concentration in paragraph [32] was calculated the following way. See Example 1 paragraph [107].

Calcium is added to the mixture in the form of calcium lactate. Calcium is 13 percent of the calcium lactate compound. Therefore, the total grams of calcium in the mixture is 0.5 grams (0.13 x 3.57 = 0.5).

Calcium at 0.5 grams divided by the total volume (240 ml) multiplied by 100 equals 0.21 percent (0.5/ 240 x 100 =0.21 percent). Thus, this amount is equivalent to the organic acidifier.